

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IRVIN COATS)	
)	
Plaintiff,)	
)	Case No. 4:16-cv-1659
v.)	
)	
SHOP 'N SAVE WAREHOUSE)	
FOODS, INC.)	
)	
and)	
)	
SARAH MEYER)	
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW Defendants, Shop 'N Save Warehouse Foods, Inc. ("Shop N Save") and Sarah Meyer, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, and for its Notice of Removal, state as follows:

The State Court Action

1. The above-entitled action, now pending in the Twenty-First Judicial Circuit Court, St. Louis County, Missouri, is a civil action alleging retaliation under the Family and Medical Leave Act and disability discrimination under state law, with respect to Plaintiff Irvin Coats' former employment with Shop 'N Save.

2. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 2.03, a certified copy of the state court file is attached hereto as Exhibit A, and the Petition is contained therein.

3. Plaintiff filed his Petition in the Twenty-First Judicial Circuit of the State of Missouri on October 4, 2016. The state court action is styled *Irvin Coats v. Shop 'N Save*

Warehouse Foods, Inc. and Sarah Meyer., bearing Cause No. 16SL-CC03653. A certified copy of the Twenty-First Judicial Circuit's file is attached hereto as Exhibit A.

4. Shop N Save was served with a civil summons and copy of the Petition through its registered agent on October 5, 2016. Ms. Meyer was served with a civil summons and copy of the Petition on October 6, 2016. *See* Exhibit A. Thus, this Notice of Removal has been timely filed within 30 days as required by 28 U.S.C. § 1446(b).

Jurisdiction and Venue

5. The United States Supreme Court has held under 28 U.S.C. section 1446(a), that a defendant seeking to remove a case to federal court need only file "a notice of removal 'containing a short and plain statement of the grounds for removal.'" *Owens v. Dart Cherokee Basin Operating Co., LLC*, 135 S.Ct. 547, 551 (2014). This language "tracks the general pleading requirement stated in Rule 8(a) of the Federal Rules of Civil Procedure" and "[a] statement 'short and plain' need not contain evidentiary submissions." *Id.* at 553.

6. Because the Twenty-First Judicial Circuit of Missouri lies within this district, this Court is the appropriate venue for removal. 28 U.S.C. §§ 1441(a) and 1446(a).

7. This matter is subject to removal based upon federal question jurisdiction, pursuant to 28 U.S.C. §§ 1331.

Federal Question Jurisdiction and Supplemental Jurisdiction

8. This Court possesses original jurisdiction over Plaintiff's Petition because Count II of the action allege civil violations of United States law. 28 U.S.C. § 1331. Specifically, federal question jurisdiction exists over Plaintiff's Petition, as he alleges violations of the Family and Medical Leave Act, 29 U.S.C. § 2601, *et. seq.* *See* Exhibit A, Plaintiff's Petition, Count II.

9. Pursuant to 28 U.S.C. § 1367(a), this Court possesses supplemental jurisdiction over Count I of Plaintiff's Petition (alleging disability discrimination in violation of state law) because Plaintiff's state law claim relates to the same employment and termination as does his federal claim, such that all of Plaintiff's claims stem from the same case or controversy under Article III of the United States Constitution. 28 U.S.C. § 1367(a); *see, e.g., Williams v. City of Marston*, 857 F.Supp.2d 852, 861-62 (E.D. Mo. 2012) (exercising supplemental jurisdiction over plaintiff's state law claims under the Missouri Human Rights Act, which the court determined were interrelated with her federal employment discrimination claims); *see also Carnegie-Mellon University v. Cohill*, 484 U.S. 343, 349 (1988) (federal courts have jurisdiction over state law claims when the federal and state claims "derive from a common nucleus of operative fact" and are "such that [a plaintiff] would ordinarily be expected to try them all in one judicial proceeding).

Compliance with Procedural Requirements

10. Pursuant to 28 U.S.C. § 1446(d), Defendants are filing with the state court a Notice to Circuit Clerk that Defendant has filed this Notice of Removal. Pursuant to Local Rule 2.03, Defendants will file proof with this Court that the Notice to Circuit Clerk was filed with the Clerk of the Twenty-First Judicial Circuit Court of Missouri. Pursuant to 28 U.S.C. § 1446(d), Defendants are serving a Notice of Filing Notice of Removal to Plaintiff, stating that a Notice of Removal to the Clerk of the United States District Court for the Eastern District of Missouri was filed, and serving a copy of this Notice of Removal upon Plaintiff. A copy of the Notice of Notice of Removal to Plaintiff is being filed herewith pursuant to Local Rule 2.03.

11. A Civil Cover Sheet and an Original Filing Form are filed as attachments to this Notice. Defendant will also file a Disclosure of Organizational Interests.

WHEREFORE, having fulfilled all statutory and procedural requirements, Defendants, Shop 'N Save Warehouse Foods, Inc. and Sarah Meyer, remove the above-described action pending in the Twenty-First Circuit Court of Missouri to this Court, and requests this Court assume full jurisdiction over the matter as provided by law and permit this action to proceed before it as a matter properly removed hereto.

Respectfully submitted,

/s/ Jeffrey D. Lester

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system to be served by operation of the Court's electronic filing system and served a copy of the foregoing via U.S. Mail upon the following:

Lawrence Kaplan
Susan Kister
KAPLAN ASSOCIATES, LLC
101 S. Hanley, Suite 1225
St. Louis, MO 63105

/s/ Jeffrey D. Lester